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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/505,915	02/17/2000	Ronald A. Katz	245/248(6046-101D8)	7611
35554	7590	12/04/2003		
REENA KUYPER, ESQ. BYARD NILSSON, ESQ. 9220 SUNSET BOULEVARD SUITE 315 LOS ANGELES, CA 90069				
			EXAMINER	
			WOO, STELLA L	
		ART UNIT	PAPER NUMBER	
		2643		

DATE MAILED: 12/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/505,915

**Applicant(s)**

KATZ, RONALD A.

**Examiner**

Stella L. Woo

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 17-40 and 42-205 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-28, 39, 40, 42-58, 63-76, 86-106, 111-170, 180-200 and 205 is/are rejected.
- 7) ☒ Claim(s) 29-38, 59-62, 77-85, 107-110, 171-179 and 201-204 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \*   c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 21-28, 69-72, 74-76, 112-158, 163-165 and 167-170 are rejected under 35

U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention.

Claims 21-23, 26-28, 69-72, 74-76, 163-165, 167-170 recite isolating a select vendor site based on purchase, cost or price data. However, the specification does not describe such isolating of a vendor using purchase, cost or price data. On page 8, line 6-8, the specification describes a buyer soliciting proposals for a particular item from vendors qualified for the designated merchandise. On page 12, lines 10-12 describe transmitting buyer requests for proposals only to vendors designated to sell the merchandise. On page 18, lines 2-10 describe regulating communication using merchandise codes which indicate the type of products each vendor is authorized to sell. Applicant argues that the request form of Figure 9 includes price data. However, the request form is transmitted to vendors who are authorized to sell the designated merchandise, as identified by the merchandise code on the request form. There is no description of the control system isolating vendors based on purchase, cost or price data.

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Claims 24 and 25 recite the control system determining a lowest offer and a highest offer. The examiner fails to find any support in the specification.

Claims 112-158 recite isolating at least one buyer based on a maximum price. However, the specification does not describe such isolating of a buyer based on a maximum price. On page 7, lines 12-19, the specification describes a vendor designating special buyers to whom a special offering is broadcast. On page 11, line 32 – page 12, line 10, the specification describes transmitting special offerings only to buyers designated for purchase of the merchandise, e.g. one buyer of XYZ Drug Company is responsible for purchasing body treatment products and would receive special offerings for body treatment products. On page 18, lines 2-10 describe regulating communication using merchandise codes which indicate the type of product each buyer is authorized to buy. There is no description of isolating a buyer based on price.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 17-20, 39-40, 42-58, 63-68, 73, 86-106, 111, 159-162, 166, 180-200, 205 are rejected under 35 U.S.C. 102(e) as being anticipated by Lockwood (US 5,576,951).

Lockwood discloses an electronic commercial transaction system (automated sales and services system; Fig. 12) for selectively enabling communications via a communication network

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(telephone network 280, telecommunications network service 205) between at least one or more buyers (customer terminal 202) and at least one of a plurality of vendor sites (goods and services providers 204), at least certain of said buyers having addresses for electronic communication (each customer television receiver 274 has its own specific address code; col. 17, lines 24-42), comprising:

an interface (central data processing center 201 provides an interface for facilitating a transaction between interested buyers 202 with a vendor site 204 via an on-line computer service TELENET 205; col. 16, lines 43-67; col. 19, lines 7-9);

an input system (customers 202 can designate an area of interest to a voice response system 221 using a tone generating keypad 276 of a dial tone telephone 275; Fig. 17; col. 17, lines 3-14; col. 19, lines 40-51);

a control system (central processor 222 selects the appropriate data source associated with the customer's request; col. 18, lines 51-54; col. 19, lines 52-53);

a memory (memory 223 stores sales data transacted for each company, the data being forwarded to the appropriate service provider 204 via TELENET 205; Fig. 12; col. 22, lines 30-56),

whereby the control system electronically outputs (central processor outputs a selected high-resolution audio-visual presentation to a customer's terminal 202; col. 18, lines 9-56; col. 19, lines 52-57).

Upon acceptance of a customer's order, the central data processing center transmits to the customer's station a confirmation number (col. 19, lines 4-6).

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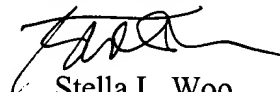
*Allowable Subject Matter*

5. Claims 29-38, 59-62, 77-85, 107-110, 171-179, 201-204 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stella L. Woo whose telephone number is (703) 305-4395. The examiner can normally be reached on Monday-Tuesday, Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on (703) 305-4708. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.



Stella L. Woo  
Primary Examiner  
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